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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/998,033	12/24/1997	SURESH JEYACHANDRAN	35.C12462	2065

5514 7590 08/04/2004

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/04/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

08/998,033

**Applicant(s)**

JEYACHANDRAN ET AL.

**Examiner**

Victor R. Kostak

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,11-20,24-31 and 175 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,11,16,19,24-27,30,31 and 175 is/are rejected.
- 7) ☒ Claim(s) 12-15,17,18,25,28 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The rejections based on Russell (and the secondary references) have been withdrawn in view of applicant's arguments. There are now new grounds of rejection based on Yamauchi et al., explained below. The examiner regrets prolonging prosecution.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 11, 19, 20 and 25 are now rejected under 35 U.S.C. 102(e) as being anticipated by Yamauchi et al.

In the description of the prior art (col. 1 line 59 – col. 2 line 20), Yamauchi explains the operation of an embodiment shown in Fig. 33, wherein a controller 201 (serving as a master unit) requests a slave unit (202, 203, or 204, etc.) through network 205, for a control program of the slave unit (col. 2 lines 3-5). The master unit receives the slave unit ID and the control program which are then stored in any of RAMs 209. The master unit then executes the control program and accordingly controls the slave unit remotely (col. 2 lines 13-16), thereby meeting claims 1 and 20.

As for claim 11, network 205 is bi-directional, as shown.

As for claim 19, the status of the slave unit is first recognized and accordingly dealt with based on the status (i.e. adequately connected or not: see Fig. 34).

Regarding claim 25, each device has its own ID (col. 2 lines 6-7).

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3. Claims 16, 24, 26, 30 and 31 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Yamauchi et al.

Regarding claims 16 and 30, since all of the control programs are stored in any of the RAMs 209 and Yamauchi does not specifically say that any of them are automatically erased, it would have been obvious to one of ordinary skill in the art to consider the accumulation of control programs so stored as effectively comprising a history of the programs executed. (Such is further implicitly suggested by virtue of the arrangement involving a musical assembly which characteristically involves a sequence of individual operations constituting an overall performance).

Likewise regarding claim 31, a repeat performance (or at least a portion thereof) would have been obvious to carry out by retrieving stored control programs rather than redoing the complete ID and device accessing and downloading of the programs by the master unit.

As for claim 24, it would have been obvious to one of ordinary skill in the art to recognize the positions (locations) of each unit since the units are respective musical instruments, the placements thereof typically being known by the operator of the master unit, as an overall arrangement.

As for claim 26, it would also have been obvious to have the master unit (comprising ID capabilities pointed out above) to identify the operator for the clear purpose of allowing only those who are authorized to operate the system, such as by a password enabling entry.

4. Claims 27 and 175 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Yamauchi et al. in view of Parthasarathi (of record).

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Reviewing Parthasarathi, he recognizes that because certain devices have become more complex and versatile, operators require advanced levels of proficiency to use them (col. 1 lines 6-17). To enable operators with different levels of competence to operate these machines, Parthasarathi provides alternative messaging versions used to interface with the devices, commensurate with the skill levels of the operators (e.g. col. 40-60; Fig. 7).

In view of this explicit benefit, it would have been obvious to one of ordinary skill in the art to incorporate the selective messaging of Parthasarathi in any system that involves interfacing with various electronic devices by an operator, as in the system of Yamauchi, for the clear purpose of enabling any operator with the ability to operate the devices regardless of the skill level of the operator.

5. Claims 12-15, 17, 18, 25, 28 and 29 appear allowable over the prior art.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

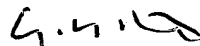
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Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9306 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak  
Primary Examiner  
Art Unit 2614

VRK